

REMARKS

This Amendment is filed in response to the Office Action mailed July 10, 2007.
All objections and rejections are respectfully traversed.

Claims 1-25 are in the case.

Claim 25 was newly added.

Claims 3, 13, 15-18 and 23-24 are withdrawn.

Request for Interview

The undersigned respectfully requests a telephonic interview with the Examiner after the Examiner has had an opportunity to consider this Amendment, but before the issuance of the next Office Action. The undersigned may be reached at 617-951-2500.

Rejections Under 35 U.S.C. § 102(e)

At paragraph 3 of the Office Action, claims 1, 14, 19, 20 and 21 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,817,032 (hereinafter "Hollander").

Applicant's claimed invention, as set forth in representative claim 1, comprises in part:

1. A protective pad assembly including:
a base layer that covers an area to which protective layers are to be applied, the base layer including integral fasteners on at least one internal or outwardly facing surface; and
a plurality of protective layers that consist of protective material with integral fasteners on the respective surfaces thereof, the respective

layers of the plurality of protective layers being smaller than the base layer and sized to cover regions of the base layer that correspond to locations of particular nerves, bones or other physical structures within the area covered by the base layer, the plurality of layers being arranged relative to the base layer to provide a selected number of protective layers to selected locations that correspond to particular nerves, bones or other physical structure within the area covered by the base layer, ***the protective layers being configured to fasten to the base layer and to one another to provide at a given selected location the protection of a desired number of layers and to provide at any other selected locations as needed the protection of the same or a different number of layers.***

Hollander teaches a garment adapted for wear by persons desiring to maintain their arms in a fixed position along their upper body (Abstract; see Figs. 2, 4, 6, 8, and 11-15). The garment (e.g., shirt, neck strap, torso strap, etc.) is primarily intended for maintaining one or both of the user's arms close against the body to facilitate relaxation while in cramped or tight positions, such as in an airplane seat (Abstract). The Hollander device attaches to first attachment means, i.e., a base layer that is worn as a garment, a second attachment means that consists of a patch sown wrist strap or glove in order to hold the user's arm against the garment. See, col. 4, lines 45-52; see also Figs. 10-12.

Hollander makes no mention that the second attachment means, i.e., patches sown on a wrist strip or glove, comprising a ***plurality of protective layers that consist of protective material***, or using the second attachment means for the purpose of providing "***a given selected location [with] the protection of a desired number of layers.***" Further Hollander does not teach or suggest that different numbers layers may be provided at the selected locations. Rather, Hollander teaches attaching the patch sewn onto the wrist strap or glove to the garment base layer at respective desired locations.

Furthermore, Hollander's garment (e.g., base layer in the above example) does not operate in the same manner as Applicant's claimed inventive base layer. That is to say, Applicant's claimed base layer is designed to cover the particular nerves, bones or other physical structures within the area covered by the base layer, for which the plurality of protective layers (e.g., padding) can be strategically placed for added protection,

whereas Hollander's garment only provides a means of securing one or both of a user's arms by their torso or wrists.

Applicant respectfully urges that Hollander does not show Applicant's claimed "*plurality of protective layers that consist of protective material at a given selected location*". Accordingly, Applicant respectfully urges that the Hollander patent is legally precluded from anticipating the claimed invention under 35 U.S.C. § 102(e) because of the absence from the Hollander patent of Applicant's claimed novel use of a "*plurality of protective layers that consist of protective material at a given selected location*".

Rejections Under 35 U.S.C. § 103

At page 3 of the Office Action, claims 2, 4-12, and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hollander. Applicant respectfully traverses this rejection

Claims 2, 4-12, and 22 are dependent claims that are dependent from independent claims which are believed to be allowable for the reasons described above. Accordingly, claims 2, 4-12, and 22 are believed to be in condition for allowance.

Conclusion

All independent claims are believed to be in condition for allowance.

All dependent claims are believed to be dependent from allowable independent claims, and therefore in condition for allowance.

Favorable action is respectfully solicited.

Please charge any fee occasioned by this paper to our Deposit Account

No. 03-1237.

Respectfully submitted,

/Patricia A. Sheehan
Patricia A. Sheehan
Reg. No. 32,301
CESARI AND MCKENNA, LLP
88 Black Falcon Avenue
Boston, MA 02210-2414
(617) 951-2500